

**SALES AND USE TAX AMENDMENTS**

2002 SIXTH SPECIAL SESSION

STATE OF UTAH

**Sponsor: Greg J. Curtis**

**This act amends the Sales and Use Tax Act to modify the amount of state sales and use tax revenue that is allocated to certain funds relating to water and the class B and class C roads account. The act repeals obsolete language and makes technical changes. This act has an immediate effective date.**

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**59-12-103**, as last amended by Chapters 77, 117, 320 and 329, Laws of Utah 2002

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **59-12-103** is amended to read:

**59-12-103. Sales and use tax base -- Rate -- Use of sales and use tax revenues.**

(1) A tax is imposed on the purchaser as provided in this part for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid:

(i) (A) to a common carrier; or

(B) whether the following are municipally or privately owned, to a:

(I) telephone service provider; or

(II) telegraph corporation as defined in Section 54-2-1; and

(ii) for:

(A) all transportation;

(B) telephone service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(C) mobile telecommunications service that originates and terminates within the



boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(D) telegraph service;

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of meals;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services:

(i) for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(A) the tangible personal property; and

(B) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i)(A), whether or not any parts are actually used in the repairs or renovations of that tangible personal property; or

(ii) to install tangible personal property in connection with other tangible personal property, unless the tangible personal property being installed is exempt from sales and use tax under Section 59-12-104;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if:

(i) the tangible personal property's situs is in this state;

(ii) the lessee took possession of the tangible personal property in this state; or

(iii) within this state the tangible personal property is:

(A) stored;

(B) used; or

(C) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed; and

(m) amounts paid or charged for prepaid telephone calling cards.

(2) (a) Except as provided in Subsections (2)(b) and (c), beginning on July 1, 2001, a state tax and a local tax is imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a rate of 4.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Notwithstanding Subsection (2)(a), beginning on July 1, 2001, a state tax and a

local tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Notwithstanding Subsections (2)(a) and (b), beginning on July 1, 2001, if a vendor collects a tax under Subsection 59-12-107(1)(b) on a transaction described in Subsection (1), a state tax and a local tax is imposed on the transaction equal to the sum of:

(i) a state tax imposed on the transaction at a rate of:

(A) 4.75% for a transaction other than a transaction described in Subsection (1)(d); or

(B) 2% for a transaction described in Subsection (1)(d); and

(ii) except as provided in Subsection (2)(d), a local tax imposed on the transaction at a rate equal to the sum of the following tax rates:

(A) (I) the lowest tax rate imposed by a county, city, or town under Section 59-12-204, but only if all of the counties, cities, and towns in the state impose the tax under Section 59-12-204; or

(II) the lowest tax rate imposed by a county, city, or town under Section 59-12-205, but only if all of the counties, cities, and towns in the state impose the tax under Section 59-12-205; and

(B) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the state impose the tax under Section 59-12-1102.

(d) Tax rates authorized under the following do not apply to Subsection (2)(c)(ii):

(i) Subsection (2)(a)(i);

(ii) Subsection (2)(b)(i);

(iii) Subsection (2)(c)(i);

(iv) Section 59-12-301;

(v) Section 59-12-352;

(vi) Section 59-12-353;

(vii) Section 59-12-401;

(viii) Section 59-12-402;

(ix) Section 59-12-501;

(x) Section 59-12-502;

- (xi) Section 59-12-603;
- (xii) Section 59-12-703;
- (xiii) Section 59-12-802;
- (xiv) Section 59-12-804;
- (xv) Section 59-12-1001;
- (xvi) Section 59-12-1201; or
- (xvii) Section 59-12-1302.

(3) (a) Except as provided in Subsections (4) through (9), the following state taxes  
[described in Subsections (2)(a)(i), (2)(b)(i), and (2)(c)(i)] shall be deposited into the General  
Fund[-];

- (i) the tax imposed by Subsection (2)(a)(i);
- (ii) the tax imposed by Subsection (2)(b)(i); and
- (iii) the tax imposed by Subsection (2)(c)(i).

(b) The local taxes described in Subsections (2)(a)(ii) and (2)(b)(ii) shall be distributed  
to a county, city, or town as provided in this chapter.

(c) (i) Notwithstanding any provision of this chapter, each county, city, or town in the  
state shall receive the county's, city's, or town's proportionate share of the revenues generated  
by the local tax described in Subsection (2)(c)(ii) as provided in Subsection (3)(c)(ii).

(ii) The commission shall determine a county's, city's, or town's proportionate share of  
the revenues under Subsection (3)(c)(i) by:

(A) calculating an amount equal to:

(I) the population of the county, city, or town; divided by

(II) the total population of the state; and

(B) multiplying the amount determined under Subsection (3)(c)(ii)(A) by the total  
amount of revenues generated by the local tax under Subsection (2)(c)(ii) for all counties,  
cities, and towns.

(iii) (A) Except as provided in Subsection (3)(c)(iii)(B), population figures for  
purposes of this section shall be derived from the most recent official census or census estimate  
of the United States Census Bureau.

(B) Notwithstanding Subsection (3)(c)(iii)(A), if a needed population estimate is not  
available from the United States Census Bureau, population figures shall be derived from the

estimate from the Utah Population Estimates Committee created by executive order of the governor.

(C) For purposes of this section, the population of a county may only include the population of the unincorporated areas of the county.

(4) (a) Notwithstanding Subsection (3)(a), there shall be deposited in an Olympics special revenue fund or funds as determined by the Division of Finance under Section 51-5-4, for the use of the Utah Sports Authority created under Title 63A, Chapter 7, Utah Sports Authority Act:

(i) from January 1, 1990, through December 31, 1999, the amount of sales and use tax generated by a 1/64% tax rate on the taxable transactions under Subsection (1);

(ii) from January 1, 1990, through June 30, 1999, the amount of revenue generated by a 1/64% tax rate under Section 59-12-204 or Section 59-12-205 on the taxable transactions under Subsection (1); and

(iii) interest earned on the amounts under Subsections (4)(a)(i) and (ii).

(b) These funds shall be used:

(i) by the Utah Sports Authority as follows:

(A) to the extent funds are available, to transfer directly to a debt service fund or to otherwise reimburse to the state any amount expended on debt service or any other cost of any bonds issued by the state to construct any public sports facility as defined in Section 63A-7-103;

(B) to pay for the actual and necessary operating, administrative, legal, and other expenses of the Utah Sports Authority, but not including protocol expenses for seeking and obtaining the right to host the Winter Olympic Games;

(C) as otherwise appropriated by the Legislature; and

(D) unless the Legislature appropriates additional funds from the Olympics Special Revenue Fund to the Utah Sports Authority, the Utah Sports Authority may not expend, loan, or pledge in the aggregate more than:

(I) \$59,000,000 of sales and use tax deposited into the Olympics Special Revenue Fund under Subsection (4)(a);

(II) the interest earned on the amount described in Subsection (4)(b)(i)(D)(I); and

(III) the revenues deposited into the Olympics Special Revenue Fund that are not sales

and use taxes deposited under Subsection (4)(a) or interest on the sales and use taxes;

(ii) to pay salary, benefits, or administrative costs associated with the State Olympic Officer under Subsection 63A-10-103(3), except that the salary, benefits, or administrative costs may not be paid from the sales and use tax revenues generated by municipalities or counties and deposited under Subsection (4)(a)(ii).

(c) A payment of salary, benefits, or administrative costs under Subsection 63A-10-103(3) is not considered an expenditure of the Utah Sports Authority.

(d) If the Legislature appropriates additional funds under Subsection (4)(b)(i)(D), the authority may not expend, loan, pledge, or enter into any agreement to expend, loan, or pledge the appropriated funds unless the authority:

(i) contracts in writing for the full reimbursement of the monies to the Olympics Special Revenue Fund by a public sports entity or other person benefitting from the expenditure; and

(ii) obtains a security interest that secures payment or performance of the obligation to reimburse.

(e) A contract or agreement entered into in violation of Subsection (4)(d) is void.

(5) (a) Notwithstanding Subsection (3)(a) and except as provided in Subsection (11), ~~[beginning on July 1, 2001, the amount of sales and use tax generated annually by a 1/16% tax rate on the taxable transactions under Subsection (1)]~~ for a fiscal year beginning on or after July 1, 2002, the lesser of the following amounts shall be used as provided in Subsections (5)(b) through (g)[-]:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) \$16,243,000.

(b) (i) Beginning on July 1, 2001, \$2,300,000 ~~[each year]~~ of the amount described in Subsection (5)(a) shall be transferred each year as dedicated credits to the Department of Natural Resources to:

(A) implement the measures described in Subsections 63-34-14(4)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations

act, to political subdivisions of the state to implement the measures described in Subsections 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (5)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) Five hundred thousand dollars ~~[each year]~~ of the amount described in Subsection (5)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-6.

(d) (i) One hundred thousand dollars ~~[each year]~~ of the amount described in Subsection (5)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) Fifty percent of the ~~[remaining]~~ amount ~~[generated by the 1/16% tax rate]~~ described in Subsection (5)(a) that remains after making the transfers and deposits required by Subsections (5)(b) through (d) shall be deposited in the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the ~~[fund]~~ Water Resources Conservation and



245 Development Fund under Section 73-10-24, the ~~[fund]~~ Water Resources Conservation and  
246 Development Fund may also be used to:

247 ~~[(i)]~~ (A) provide a portion of the local cost share, not to exceed in any fiscal year 50%  
248 of the funds made available to the Division of Water Resources under this section, of potential  
249 project features of the Central Utah Project;

250 ~~[(ii)]~~ (B) conduct hydrologic and geotechnical investigations by the Department of  
251 Natural Resources in a cooperative effort with other state, federal, or local entities, for the  
252 purpose of quantifying surface and ground water resources and describing the hydrologic  
253 systems of an area in sufficient detail so as to enable local and state resource managers to plan  
254 for and accommodate growth in water use without jeopardizing the resource;

255 ~~[(iii)]~~ (C) fund state required dam safety improvements; and

256 ~~[(iv)]~~ (D) protect the state's interest in interstate water compact allocations, including  
257 the hiring of technical and legal staff.

258 (f) Twenty-five percent of the ~~[remaining]~~ amount ~~[generated by the 1/16% tax rate]~~  
259 described in Subsection (5)(a) that remains after making the transfers and deposits required by  
260 Subsection (5)(b) through (d) shall be deposited in the Utah Wastewater Loan Program  
261 Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater  
262 projects.

263 (g) Twenty-five percent of the ~~[remaining]~~ amount ~~[generated by the 1/16% tax rate]~~  
264 described in Subsection (5)(a) that remains after making the transfers and deposits required by  
265 Subsections (5)(b) through (d) shall be deposited in the Drinking Water Loan Program  
266 Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

267 (i) provide for the installation and repair of collection, treatment, storage, and  
268 distribution facilities for any public water system, as defined in Section 19-4-102;

269 (ii) develop underground sources of water, including springs and wells; and

270 (iii) develop surface water sources.

271 (6) (a) Notwithstanding Subsection (3)(a), ~~[beginning on July 1, 2001, the amount of~~  
272 ~~sales and use tax generated annually by a 1/16% tax rate on the taxable transactions under~~  
273 Subsection (1)] for a fiscal year beginning on or after July 1, 2002, the lesser of the following  
274 amounts shall be used as provided in Subsections (6)(b) through (d)[-]:

275 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

276 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

277 (B) for the fiscal year; or

278 (ii) \$18,743,000.

279 (b) (i) Five hundred thousand dollars ~~[each year]~~ of the amount described in Subsection  
280 (6)(a) shall be deposited each year in the Transportation Corridor Preservation Revolving Loan  
281 Fund created in Section 72-2-117.

282 (ii) At least 50% of the money deposited in the Transportation Corridor Preservation  
283 Revolving Loan Fund under Subsection (6)(b)(i) shall be used to fund loan applications made  
284 by the Department of Transportation at the request of local governments.

285 (c) ~~[From]~~ For fiscal years beginning on or after July 1, 1997, through the fiscal year  
286 ending on June 30, 2006, \$500,000 [each year] of the amount described in Subsection (6)(a)  
287 shall be transferred each year as nonlapsing dedicated credits to the Department of  
288 Transportation for the State Park Access Highways Improvement Program created in Section  
289 72-3-207.

290 (d) The ~~[remaining]~~ amount ~~[generated by the 1/16% tax rate]~~ described in Subsection  
291 (6)(a) that remains after making the transfers and deposits required by Subsections (6)(b) and  
292 (c) shall be deposited in the class B and class C roads account to be expended as provided in  
293 Title 72, Chapter 2, Transportation Finances Act, for the use of class B and C roads.

294 (7) (a) Notwithstanding Subsection (3)(a), beginning on January 1, 2000, the Division  
295 of Finance shall deposit into the Centennial Highway Fund created in Section 72-2-118 a  
296 portion of the ~~[state sales and use tax]~~ taxes listed under Subsection ~~[(2)]~~ (3)(a) equal to the  
297 revenues generated by a 1/64% tax rate on the taxable transactions under Subsection (1).

298 (b) Except for sales and use taxes deposited under Subsection (8), beginning on July 1,  
299 1999, the revenues generated by the 1/64% tax rate:

300 (i) retained under Subsection 59-12-204(7)(a) shall be retained by the counties, cities,  
301 or towns as provided in Section 59-12-204; and

302 (ii) retained under Subsection 59-12-205(4)(a) shall be distributed to each county, city,  
303 and town as provided in Section 59-12-205.

304 (8) Notwithstanding Subsection (3)(a), beginning on July 1, 1999, the commission  
305 shall deposit into the Airport to University of Utah Light Rail Restricted Account created in  
306 Section 17A-2-1064 the portion of the sales and use tax under Sections 59-12-204 and

59-12-205 that is:

(a) generated by a city or town that will have constructed within its boundaries the Airport to University of Utah Light Rail described in the Transportation Equity Act for the 21st Century, Pub. L. No. 105-178, Sec. 3030(c)(2)(B)(i)(II), 112 Stat. 107; and

(b) equal to the revenues generated by a 1/64% tax rate on the taxable items and services under Subsection (1).

(9) (a) Notwithstanding Subsection (3)(a), for fiscal years beginning on or after fiscal year 2002-03, the commission shall on or before September 30 of each year deposit the difference described in Subsection (9)(b) into the Remote Sales Restricted Account created in Section 59-12-103.2 if that difference is greater than \$0.

(b) The difference described in Subsection (9)(a) is equal to the difference between:

(i) the total amount of revenues under Subsection (2)(c)(i) the commission received from vendors collecting a tax under Subsection 59-12-107(1)(b) for the fiscal year immediately preceding the September 30 described in Subsection (9)(a); and

(ii) the total amount of revenues under Subsection (2)(c)(i) the commission estimates that the commission received from vendors described in Subsection 59-12-107(1)(b) for fiscal year 2000-01.

(10) (a) For purposes of amounts paid or charged as admission or user fees relating to the Olympic Winter Games of 2002, the amounts are considered to be paid or charged on the day on which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 or a person designated by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 sends a purchaser confirmation of the purchase of an admission or user fee described in Subsection (1)(f).

(b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules defining what constitutes sending a purchaser confirmation under Subsection (10)(a).

~~[(11) (a) For fiscal year 2001-02 only, the commission shall subtract the following amounts from the total amount required to be deposited in accordance with Subsection (5):]~~

~~[(i) \$250,000 shall be subtracted from the total amount required to be deposited into the Drinking Water Loan Program Subaccount in accordance with Subsection (5)(g); and]~~

~~[(ii) \$250,000 shall be subtracted from the total amount required to be deposited into~~

the Utah Wastewater Loan Program Subaccount in accordance with Subsection (5)(f).]

~~[(b)]~~ (11) (a) For fiscal year 2002-03 only, the following amounts shall be subtracted from the total amount required to be deposited in accordance with Subsection (5):

(i) \$310,000 shall be subtracted from the total amount required to be deposited into the Agriculture Resource Development Fund in accordance with Subsection (5)(c);

(ii) \$2,500,000 shall be subtracted from the total amount required to be deposited into the Drinking Water Loan Program Subaccount in accordance with Subsection (5)(g);

(iii) \$2,500,000 shall be subtracted from the total amount required to be deposited into the Utah Wastewater Loan Program Subaccount in accordance with Subsection (5)(f); and

(iv) \$4,690,000 shall be subtracted from the total amount required to be deposited into the Water Resources Conservation and Development Fund in accordance with Subsection (5)(e).

~~[(c)]~~ (b) The amounts subtracted under Subsection (11)(a) ~~[or (b)]~~ shall be deposited into the General Fund.

#### Section 2. **Effective date.**

If approved by two-thirds of all the members elected to each house, this act takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

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#### **Legislative Review Note** **as of 12-18-02 6:32 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**